



California Board of Accountancy
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**DEPARTMENT OF CONSUMER AFFAIRS
 CALIFORNIA BOARD OF ACCOUNTANCY**

**MINUTES OF THE
 September 26-27, 2019
 CALIFORNIA BOARD OF ACCOUNTANCY MEETING**

California State Polytechnic University, Pomona
 Kellogg West Conference Center and Hotel
 3801 West Temple Avenue
 Pomona, Ca 91768
 Telephone: (800) 593-7876

Call to Order, Roll Call, Establishment of Quorum, and Opening Remarks.

California Board of Accountancy (CBA) President George Famalett, CPA, called the meeting to order at 10:02 a.m. on Thursday, September 26, 2019 at the Kellogg West Conference Center and Hotel in Pomona and recessed at 11:23 a.m. The CBA convened into closed session from 1:00 p.m. until 2:00 p.m. The CBA reconvened into open session from 2:01 p.m. until 2:35 p.m. The CBA reconvened into closed session from 2:36 p.m. until 2:52 p.m. The CBA convened for the day at 2:53 p.m. The CBA reconvened on Friday, September 27, 2019 at 9:00 a.m. until 10:19 a.m. The CBA convened into closed session from 10:30 a.m. until 11:10 a.m. President Famalett adjourned the meeting at 11:11 a.m.

CBA Members

George Famalett, CPA, President
 Mark J. Silverman, Esq., Vice-President
 Nancy J. Corrigan, CPA, Secretary/Treasurer
 Alicia Berhow
 Jose A. Campos, CPA
 Mary M. Geong, CPA
 Karriann Farrell Hinds, Esq.
 Dan Jacobson, Esq.
 Xochitl A. León
 Luz Molina Lopez
 Carola A. Nicholson, CPA
 Deidre Robinson
 Katrina L. Salazar, CPA

September 26, 2019

10:02 a.m. to 2:53 p.m.
 10:02 a.m. to 2:53 p.m.
 10:02 a.m. to 2:53 p.m.
 10:02 a.m. to 2:01 p.m.
 10:02 a.m. to 2:53 p.m.
 10:02 a.m. to 2:53 p.m.
 Absent
 10:02 a.m. to 2:53 p.m.
 Absent
 10:02 a.m. to 2:53 p.m.
 Absent
 Absent
 10:02 a.m. to 2:53 p.m.

CBA Members

Michael M. Savoy, CPA

September 26, 2019

10:02 a.m. to 2:53 p.m.

CBA Members

George Famalett, CPA, President

Mark J. Silverman, Esq., Vice-President

Nancy J. Corrigan, CPA, Secretary/Treasurer

Alicia Berhow

Jose A. Campos, CPA

Mary M. Geong, CPA

Karriann Farrell Hinds, Esq.

Dan Jacobson, Esq.

Xochitl A. León

Luz Molina Lopez

Carola A. Nicholson, CPA

Deidre Robinson

Katrina L. Salazar, CPA

Michael M. Savoy, CPA

September 27, 2019

9:00 a.m. to 11:11 a.m.

Absent

9:00 a.m. to 11:11 a.m.

Absent

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9:00 a.m. to 11:11 a.m.

Absent

9:00 a.m. to 11:11 a.m.

Absent

9:00 a.m. to 11:11 a.m.

Absent

Absent

9:00 a.m. to 11:11 a.m.

9:00 a.m. to 11:11 a.m.

Staff and Legal Counsel

Patti Bowers, Executive Officer

Rich Andres, Information Technology Staff

Aaron Bone, Information and Planning Officer

Ileana Butu, Legal Counsel, Department of Consumer Affairs (DCA)

Theodore Drcar, Deputy Attorney General (DAG), Department of Justice (DOJ)

Paul Fisher, Enforcement Supervising ICPA

Dominic Franzella, Chief, Enforcement Division

Monique Langer, Information and Planning Analyst

Peter Renevitz, Legislative Analyst

Rebecca Reed, Board Relations Analyst

Carl W. Sonne, DAG, DOJ

Wayne Wilson, Special Projects Analyst

Committee Chairs and Members

Jeffrey De Lyser, CPA, Chair, Peer Review Oversight Committee (PROC)

Other Participants

Thomas Burke, Center for Public Interest Law

Jason Fox, California Society of CPAs (CalCPA)

Pilar Oñate-Quintana, The Oñate Group

I. Report of the President.

A. Discussion of Process for Annual Officer Elections.

President Famalett announced that the annual officer elections will be held at the November 2019 CBA meeting. He stated any member interested in a

leadership position should submit a statement of qualifications to staff by October 11, 2019.

B. Discussion of Process for Annual Executive Officer Evaluation.

President Famalett announced that the CBA will be meeting in closed session at its November 2019 meeting to discuss the annual Executive Officer evaluation. He requested that members complete the evaluation form and return the form to his attention. The evaluation forms will be used during the discussion.

C. Department of Consumer Affairs Director's Report on Departmental Activities.

This item was a written report only.

II. Report of the Vice-President.

A. Recommendations for Appointment(s)/Reappointment(s) to the Enforcement Advisory Committee.

It was moved by Ms. Berhow and seconded by Mr. Jacobson to reappoint Michael Johnson, CPA and Jim Songey, CPA to the Enforcement Advisory Committee effective October 1, 2019.

Yes: Ms. Berhow, Mr. Campos, Ms. Corrigan, Mr. Famalett, Ms. Geong, Mr. Jacobson, Ms. Molina Lopez, Ms. Salazar, Mr. Savoy, and Mr. Silverman.

No: None.

Abstain: None.

Absent: Ms. Hinds, Ms. León, Ms. Nicholson, and Ms. Robinson.

B. Recommendations or Appointment(s)/Reappointment(s) to the Qualifications Committee.

It was moved by Mr. Campos and seconded by Ms. Corrigan to reappoint Brad Holsworth, CPA and Michael Williams, CPA to the Qualifications Committee effective October 1, 2019.

Yes: Ms. Berhow, Mr. Campos, Ms. Corrigan, Mr. Famalett, Ms. Geong, Mr. Jacobson, Ms. Molina Lopez, Ms. Salazar, Mr. Savoy, and Mr. Silverman.

No: None.

Abstain: None.

Absent: Ms. Hinds, Ms. León, Ms. Nicholson, and Ms. Robinson.

- C. Recommendations for Appointment(s)/Reappointment(s) to the Peer Review Oversight Committee.

There was no report on this agenda item.

III. Report of the Secretary/Treasurer.

A. Fiscal Year 2018-19 Year End Financial Report.

Ms. Corrigan reported that the CBA's actual expenditures as of June 30, 2019 were \$13,594,104, or 96 percent of the CBA budget. She stated that the CBA is currently projected to end fiscal year (FY) 2018-19 with an approximate surplus of \$190,000.

Ms. Corrigan stated DCA is reconciling final revenue and expenditure numbers for FYs 2017-18 and 2018-19. DCA hopes to have the final year-end financial statements for both years available for presentation at the November 2019 CBA meeting.

Ms. Corrigan stated that the Fund Condition indicated that the CBA is projected to end FY 2018-19 with approximately 15.7 months in the reserve fund.

Ms. Corrigan stated that the budget authority for the CBA for FY 2019-20 was set at \$16,096,000.

IV. Report of the Executive Officer.

A. Update on Staffing.

Ms. Bowers reported that the CBA was still in the process of recruiting for the Licensing Chief position. She stated that until the position is filled, management in the Enforcement Division would be assisting with the day-to-day operations of the Licensing Division.

B. Discussion and Possible Action Regarding Assessment of Credit Card Transaction Fees.

Ms. Bowers stated that at the July 2018 CBA meeting, information was presented regarding acceptance of credit cards for online License renewal payments. She stated that two models were presented for consideration. She noted that the first model included having the CBA pay the fees associated with the online credit card transactions, and the second model included having individuals pay the fee associated with the transactions. She

stated that it was recommended by staff and approved by the CBA that the CBA would pay the cost of these fees.

Ms. Bowers stated that since the implementation of the online credit card option in December 2018 for license renewals, the CBA has paid \$9,700 in processing fees. She stated that this was an average usage rate of 13 percent of all renewals processed per month and the average processing fee was 2.1 percent for transactions.

Ms. Bowers stated that although participation has been less than the 80 percent projection, it is anticipated that credit card usage will increase as time goes on and the Business Modernization Project is implemented.

Ms. Bowers stated that the estimated cost for the online credit card payments for FY 2019-20 is \$66,480. She stated that the projection included a potential Renewal fee increase in January 2020, per Assembly Bill 1521, and the total is based on a 20 percent increase in the participation rate to 36 percent.

Ms. Bowers stated that the projected costs for FY 2020-21 of \$187,760, included the credit card fees for license renewal, examination, and initial licensure.

Ms. Bowers stated that the CBA is presently securing a vendor to perform a fee analysis of all the CBA licensing fees in order to determine if other fee increases are needed. She noted that the outcome of the fee analysis may impact the associated processing fee. Ms. Bowers indicated that the results of the fee analysis should be available in 2020.

Mr. Jacobson inquired if the CBA receives fees quicker when fees are paid by credit card.

Ms. Bowers stated that the fees are received quicker when the fees are paid by credit card.

Mr. Jacobson inquired if the State Controller can pay the credit card fees.

Ms. Bowers stated that staff can check if the State Controller would be able to pay the credit card fees.

Ms. Molina Lopez inquired if the CBA would continue to use Elevon as the credit card vendor.

Ms. Butu stated that since the credit card vendor contract is through the Department of General Services (DGS) contract, the CBA will need to use the same vendor as DGS.

Ms. Salazar stated the credit card processing fees today are not that significant to the budget, but if all fees are eventually paid on-line through credit cards, she inquired if the CBA can take into consideration the credit card processing fees when we set the licensing fees if the processing fees become significant.

Ms. Bowers stated that staff is in the process of securing a vendor to complete the fee analysis. She stated that the fee analysis will take into account all of the fees.

Ms. Butu stated that the CBA would need authority to incorporate the processing fees into the licensing fees.

Mr. Campos inquired if the processing fee was passed to the user, would that require regulatory approval.

Ms. Butu stated that the CBA can pass the processing fee along, but it would need to be incorporated into statute. She stated that the CBA could either pass the convenience fee onto the user, which would require authority to do that, or it could be done as part of a fee analysis.

Mr. Campos inquired if staff could look into the statutory requirements and also provide additional information on the other boards/bureaus that accept credit card payments and who is paying the processing fees, the consumer or the agency.

C. Presentation of the California Board of Accountancy Annual Report for Fiscal Year 2018-19.

Mr. Bone stated that the CBA's Annual Report discusses the accomplishments of the CBA during the prior fiscal year as the CBA fulfills its mission of consumer protection. Mr. Bone provided select highlights from the report.

Ms. Molina Lopez inquired on the reason that the chart showing application and licensure statistics shows a greater number of CPA Examination applications approved than received.

Ms. Bowers stated that the amount includes applications that are received in the prior fiscal year, but not approved until the current fiscal year. She stated that staff can add a footnote to the report to reflect that information.

D. Update and Discussion on Activities to Collect Applicant and Licensee Email Addresses and Transition to Primarily Electronic Distribution of the *UPDATE* Publication.

Mr. Bone stated that in July 2018, the CBA directed staff to begin to move away from the hard copy printing and mailing of the *UPDATE* publication. He stated to facilitate the transition, the CBA included in its Sunset Report two related statutory requests. The first was to allow the CBA to meet its obligation to provide a report of its activities to licensees through an email distribution or by posting it onto the CBA website. The second was to require all applicants and licensees to provide a valid email address to the CBA. He stated that both requests were included in AB 1521.

Mr. Bone stated that staff plans to collect email addresses and transition *UPDATE* readers to an electronic distribution. He stated that staff is developing a system that would require readers to opt-in if they wish to receive a hard copy of the publication. He stated that staff will manage the email collection and opt-in processes through the CBA website.

E. Update on the California Board of Accountancy's Communications and Outreach.

Mr. Bone reported that the CBA hosted an outreach event cosponsored by the California Polytech College of Business Administration. He stated that CBA Secretary/Treasurer, Nancy Corrigan, CPA and staff spoke at the business college building and provided an overview of the requirements for licensure in California.

Mr. Bone stated that staff traveled to Pasadena on August 3, 2019 to attend a community resource fair and block party hosted by Assemblymember Christopher Holden. He stated that DCA and other state agencies were represented that day.

Mr. Bone stated that on September 20, 2019 Ms. Corrigan spoke to students at Chaffey College in Rancho Cucamonga. He stated that the event was hosted by CalCPA as part of their "From Community College to CPA" series. He noted that staff also attended to provide outreach materials and respond to attendee questions.

Mr. Bone stated that the CBA has been invited to speak at upcoming CalCPA events at San Francisco State University on October 29, 2019 and American River College in Sacramento on December 6, 2019.

V. Report on the Enforcement Advisory Committee, Qualifications Committee, and Peer Review Oversight Committee.

A. Enforcement Advisory Committee.

There was no report on this agenda item.

B. Qualifications Committee.

There was no report on this agenda item.

C. Peer Review Oversight Committee.

1. Report of the August 16, 2019 Peer Review Oversight Committee Meeting.

Mr. De Lyser reported that the Peer Review Oversight Committee (PROC) discussed and provided feedback regarding the approval of its May 3, 2019 meeting minutes, 2020 PROC meeting dates, and preliminary assessments of its 2019 Administrative Site Visit to the CalCPA.

Mr. De Lyser stated that the PROC comprehensively reviewed and discussed items to include in the 2019 PROC Annual Reports and peer review-related statistics. He noted the PROC also discussed and provided feedback regarding the progress and development of the peer reviewer population monitoring framework and feedback received from the American Institute of Certified Public Accountants (AICPA) regarding nonconforming engagements identified by subject matter experts.

2. Approval of the 2020 Peer Review Oversight Committee Meeting Dates.

It was moved by Ms. Salazar and seconded by Ms. Corrigan to approve the 2020 Peer Review Oversight Committee meeting dates.

Yes: Ms. Berhow, Mr. Campos, Ms. Corrigan, Mr. Famalett, Ms. Geong, Mr. Jacobson, Ms. Molina Lopez, Ms. Salazar, Mr. Savoy, and Mr. Silverman.

No: None.

Abstain: None.

Absent: Ms. Hinds, Ms. León, Ms. Nicholson, and Ms. Robinson.

3. Discussion and Possible Action Regarding American Institute of Certified Public Accountants Subject Matter Experts Identifying a Higher Number of Nonconforming Peer Review Engagements Than Peer Reviewers.

Mr. Franzella stated that in 2018, the CBA's PROC reviewed the AICPA Oversight Report and determined that the report indicated the AICPA subject matter experts (SME) were identifying higher numbers of nonconforming engagements than peer reviewers and that there was a need to obtain clarity regarding the nonconforming engagements identified by the AICPA SMEs and peer reviewers.

Mr. Franzella stated that the CBA acknowledged the PROC's interest and requested that the PROC follow-up on this topic with the AICPA.

Mr. Franzella stated that on May 30, 2019, staff sent a letter to AICPA and requested clarification regarding the number of nonconforming engagements identified in the 2017 AICPA Oversight Report.

Mr. Franzella stated that on July 18, 2019, the CBA received a response letter from AICPA regarding the number of nonconforming engagements identified in the 2017 AICPA Oversight Report.

Mr. Franzella stated that at its August 16, 2019 meeting, the PROC acknowledged the struggles experienced by the AICPA related to the overall development of a consistent and comprehensive definition of nonconforming peer reviews and believes that over time this will become more consistent through continual annual oversight.

Mr. Campos inquired if the peer reviewers are doing what they need to do or is there an issue with the quality control of the peer reviewers. He stated that failing peer reviews are not being caught by their peer reviewers but caught by independent sample reviews.

Mr. De Lyser stated that the AICPA have made efforts to try to create some sort of objectivity. He stated that AICPA has modified the check list that peer reviewers are using to where key issues are bolded on the check list to help guide the judgment of the peer reviewer so that two sets of independent people can achieve similar conclusions on an engagement.

4. Update Regarding the Peer Reviewer Population.

Mr. Franzella stated that previously the CBA and PROC expressed concerns regarding the possible decrease in the California peer reviewer population and the potential barrier for licensees to find peer reviews to complete their required peer review.

Mr. Franzella stated that since that time, the CBA and PROC have sent multiple communications to the AICPA inquiring about the statistics it maintains related to the population.

Mr. Franzella stated that earlier this year, the CBA approved a letter that changed the nature of the CBA's request. He stated that rather than working through the possible statistics the AICPA may have, the CBA proposed a monitoring framework that included both data collection and narrative analysis specific to the California peer review population, enrollment in the peer review program, and peer reviews completed for California-licensed accounting firms.

Mr. Franzella stated that at its recent August meeting, the PROC reviewed the AICPA response and determined it to be sufficient to initiate the peer reviewer population monitoring and reporting framework.

Mr. Franzella stated at this stage, the information received from AICPA is mostly informational and the CBA will be able to evaluate trends in the years to come. He stated that the first set of peer reviewer population statistics will become most useful after we move into the next three-year period as peer review for accounting firms operates on a three-year cycle.

Mr. Franzella stated staff will work with AICPA, with guidance from the PROC, and incorporate peer reviewer population statistics in the 2020 PROC Annual Report.

Ms. Molina Lopez inquired if all of the information regarding the peer reviewer population comes from AICPA and if other states are having the issues with the peer reviewer population.

Mr. Franzella stated that all of the information received regarding the peer reviewer population comes from the AICPA and the peer reviewer population is on many states radar.

It was moved by Ms. Salazar and seconded by Ms. Berhow to approve the data collecting and monitoring framework and to begin having the PROC report the information in the PROC's 2020 Annual Report.

Yes: Ms. Berhow, Mr. Campos, Ms. Corrigan, Mr. Famalett, Ms. Geong, Mr. Jacobson, Ms. Molina Lopez, Ms. Salazar, Mr. Savoy, and Mr. Silverman.

No: None.

Abstain: None.

Absent: Ms. Hinds, Ms. León, Ms. Nicholson, and Ms. Robinson.

VI. Report of the Enforcement Chief.

A. Enforcement Activity Report.

Mr. Franzella provided an overview of this item.

Ms. Geong inquired on what is considered practicing without a permit.

Mr. Franzella stated that practicing without a permit can include licensed CPAs that are practicing while their license is not current, unregistered firms, and individuals without a CPA license.

Ms. Molina Lopez inquired on the outcomes for the closed for compliance portion of unlicensed activity.

Mr. Franzella stated that most of the cases involve unregistered firms or sole-proprietors that have not registered with the CBA. He stated that staff work with the individuals in getting them in compliance with registration requirements. He stated that this could also include individuals that market themselves as doing accounting level work but might not require a license, in which staff assists them with being in compliance with their marketing materials.

Mr. Campos inquired on where the CBA is regarding the Department of Labor's (DOL) Employee Benefit Plan Audit referrals. He stated that there were a few DOL type of referrals in the past but the amount received is down.

Mr. Famalett inquired on what was the main cause of the renewal deficiency.

Mr. Franzella stated that a majority of the renewal deficiencies are related to continuing education (CE) and mainly the yearly CE requirement.

Mr. Famalett requested that staff provide information regarding the yearly CE requirement in the next *UPDATE* publication.

Ms. Bowers stated that once the Business Modernization project is complete, staff may be able to provide information electronically to licensees.

VII. Report of the Licensing Chief.

A. Licensing Activity Report.

Mr. Franzella provided an overview of this item.

VIII. Meeting Minutes.

A. Adoption of the Minutes of the July 25, 2019, California Board of Accountancy Meeting.

It was moved by Ms. Berhow and seconded by Ms. Corrigan to approve agenda item VIII.A., with the addition of Ms. Salazar's participation of the meeting via teleconference.

Yes: Ms. Berhow, Mr. Campos, Ms. Corrigan, Mr. Jacobson, Ms. Molina Lopez, Ms. Salazar, Mr. Savoy, and Mr. Silverman.

No: None.

Abstain: Mr. Famalett and Ms. Geong.

Absent: Ms. Hinds, Ms. León, Ms. Nicholson, and Ms. Robinson.

- B. Acceptance of the Minutes of the July 25, 2019, Committee on Professional Conduct Meeting.
- C. Acceptance of the Minutes of the July 25, 2019, Legislative Committee Meeting.
- D. Acceptance of the Minutes of the May 3, 2019, Peer Review Oversight Committee Meeting.

It was moved by Mr. Campos and seconded by Ms. Berhow to accept agenda items VIII.B. through VIII.D.

Yes: Ms. Berhow, Mr. Campos, Ms. Corrigan, Mr. Jacobson, Ms. Molina Lopez, Ms. Salazar, Mr. Savoy, and Mr. Silverman.

No: None.

Abstain: Mr. Famalett and Ms. Geong.

Absent: Ms. Hinds, Ms. León, Ms. Nicholson, and Ms. Robinson.

IX. Other Business.

A. American Institute of Certified Public Accountants.

- 1. Report on Meetings of the American Institute of Certified Public Accountants Attended by a California Board of Accountancy Representative.
 - a. State Board Committee.

There was no report on this agenda item.

B. National Association of State Boards of Accountancy.

- 1. Report of the National Association of State Boards of Accountancy Pacific Regional Director.

Ms. Salazar reported that she attended the July NASBA Board meeting. She noted the board discussed the slate of officers approved by the board and that the officers will be voted on at the NASBA Annual Meeting. She stated that the bylaw revisions will also be presented and voted on at the meeting.

2. Discussion and Approval of Staff Responses to the National Association of State Boards of Accountancy's Focus Questions.

It was moved by Mr. Campos and seconded by Mr. Silverman to approve the proposed responses to the NASBA Focus Questions.

Yes: Ms. Berhow, Mr. Campos, Ms. Corrigan, Mr. Famalett, Ms. Geong, Mr. Jacobson, Ms. Molina Lopez, Ms. Salazar, Mr. Savoy, and Mr. Silverman.

No: None.

Abstain: None.

Absent: Ms. Hinds, Ms. León, Ms. Nicholson, and Ms. Robinson.

3. Report on Meetings of the National Association of State Boards of Accountancy Attended by a California Board of Accountancy Member or Staff.

- a. Bylaws Committee.

There was no report on this agenda item.

- b. Diversity Committee.

There was no report on this agenda item.

- X. Report on the Committee on Professional Conduct and Legislative Committee.

- A. Committee on Professional Conduct.

1. Report of the September 26, 2019, Committee on Professional Conduct Meeting.
2. Discussion and Possible Action to Initiate a Rulemaking to Amend Title 16, California Code of Regulations Section 2.8 – Definition of Satisfactory Evidence.

Mr. Jacobson reported that the purpose of the item is to provide the CBA the opportunity to consider and approve updating the definition for satisfactory evidence as it relates to meeting the educational requirements for applicants applying for admission to the Uniform CPA Examination and CPA licensure. He stated that the offered proposal is designed to streamline how CBA may receive certified transcripts, including the ability to receive certified transcripts via a secured electronic method directly from the educational institution.

The CPC recommended that the CBA:

- **approve the amended regulatory text in Title 16, California Code of Regulations section 2.8;**
- **Direct staff to submit the text to the Director of the Department of Consumer Affairs and the Business, Consumer Services, and Housing Agency for review;**
- **If no adverse comments are received, authorize the Executive Officer to take all steps necessary to initiate the rulemaking process, make any non-substantive changes to the package, and set the matter for hearing.**

Yes: Mr. Campos, Ms. Corrigan, Mr. Famalett, Ms. Geong, Mr. Jacobson, Ms. Molina Lopez, Ms. Salazar, and Mr. Silverman.

No: None.

Abstain: None.

Absent: Ms. Berhow, Ms. Hinds, Ms. León, Ms. Nicholson, Ms. Leon, and Mr. Savoy.

3. Pending Statutory Changes Effective January 1, 2020 to Business and Professions Code Sections 5070.1, 5070.2, 5070.5, 5096, and 5096.12, Discussion and Possible Action to Make No substantive ("Section 100") Changes to the Forms Incorporated by Reference in Title 16, California Code of Regulations, Sections 15.1, 16, 19 and 20 to Require the Collection of Electronic Mail Addresses.

Mr. Jacobson reported the purpose of this item was to provide the CBA an opportunity to consider and approve amending certain CBA regulations and corresponding forms, incorporated by reference, to require applicants and licensees to provide an email address to the CBA. He stated that this requirement is included within AB 1521, the CBA's sunset bill.

The CPC recommended the that the CBA approve the regulatory text and forms incorporated by reference in CBA Regulation sections 15.1, 16, 19, and 20; and authorize the Executive Officer to initiate the formal rulemaking process for a Section 100 change, including submitting the text and form changes to the Office of Administrative Law.

Yes: Mr. Campos, Ms. Corrigan, Mr. Famalett, Ms. Geong, Mr. Jacobson, Ms. Molina Lopez, Ms. Salazar, and Mr. Silverman.

No: None.

Abstain: None.

Absent: Ms. Berhow, Ms. Hinds, Ms. León, Ms. Nicholson, Ms. Leon, and Mr. Savoy.

B. Legislative Committee.

1. Report of the September 26, 2019, Legislative Committee Meeting.
2. California Board of Accountancy 2019 Legislative Tracking Chart.

This was a written report only.

3. Update, Discussion, and Possible Action on Legislation on Which the California Board of Accountancy Has Taken a Position.
 - a. Assembly Bill 476 – Department of Consumer Affairs: Task Force: Foreign-Trained Professionals.

Ms. Molina Lopez reported that AB 476 would require the Department of Consumer Affairs to create a task force to study and issue a report regarding the licensing of professionals trained outside of the United States by July 1, 2022. The LC continued to maintain its Watch position on AB 476. She stated that AB 476 was approved by the Legislature and is awaiting action by the Governor.

The LC did not take action on this item.

- b. Assembly Bill 1076 – Criminal Records: Automatic Relief.

Ms. Molina Lopez reported AB 1076 would establish a new administrative process operated by the Department of Justice that would grant arrest and criminal conviction record relief to eligible individuals.

Ms. Molina Lopez stated that recent amendments narrowed the scope of the bill but do not address the CBA's concerns regarding non-active licensees who have not submitted to a criminal background check. She stated that AB 1076 was approved by the Legislature and is awaiting action by the Governor. She stated that staff submitted a letter to the Governor requesting a veto. She stated that the LC maintained its Oppose, Unless Amended position.

The LC did not take any action on this item.

- c. Assembly Bill 1181 – Charitable Organizations.

Ms. Molina Lopez reported that AB 1181 requires the financial records relating to certain solicitations for charitable purposes be maintained according to accounting standards apart from generally accepted accounting principles (GAAP). She stated that recent amendments narrowed the scope of the bill, but did not address the CBA's fundamental concerns.

Ms. Molina Lopez stated that AB 1181 was approved by the Legislature and is awaiting action by the Governor. She stated that staff submitted a letter to the Governor requesting a veto. The LC maintained its Oppose position.

The LC did not take any action on this item.

d. Assembly Bill 1521 – Accountancy: California Board of Accountancy.

Ms. Molina Lopez reported that AB 1521 is the CBA's sunset bill and indicated that since the prior CBA meeting, the bill was amended to address a conflict with AB 1076. She stated that AB 1521 was approved by the Legislature and is awaiting action by the Governor. She stated that staff submitted a letter requesting the Governor's signature. The LC maintained its Support position.

The LC did not take any action on this item.

e. Assembly Bill 1525 – Cannabis: Financial Institutions.

Ms. Molina Lopez reported that AB 1525 would provide a "safe harbor" for certain financial services professionals and organizations, CPAs, and accounting firms that provide services to those licensed to engage in the commercial cannabis industry.

The LC recommended the CBA adopt a Support, if Amended position, requesting the bill be amended to include any individual or public accounting firm authorized to practice in this state pursuant to the California Accountancy Act.

Yes: Mr. Campos, Ms. Corrigan, Mr. Famalett, Ms. Geong, Mr. Jacobson, Ms. Molina Lopez, Ms. Salazar, and Mr. Silverman.

No: None.

Abstain: None.

Absent: Ms. Berhow, Ms. Hinds, Ms. León, Ms. Nicholson, Ms. Leon, and Mr. Savoy

The LC recommended the CBA approve the draft Support, if Amended position letter for AB 1525.

Yes: Mr. Campos, Ms. Corrigan, Mr. Famalett, Ms. Geong, Mr. Jacobson, Ms. Molina Lopez, Ms. Salazar, and Mr. Silverman.

No: None.

Abstain: None.

Absent: Ms. Berhow, Ms. Hinds, Ms. León, Ms. Nicholson, Ms. Leon, and Mr. Savoy.

- f. Senate Bill 51 – Financial Institutions: Cannabis.

Ms. Molina Lopez reported that Senate Bill (SB) 51 would establish cannabis limited charter banks and cannabis limited charter credit unions to provide certain banking services to the cannabis industry. She stated that this measure passed the Senate, but was held on the Inactive file in the Assembly, so the author has more time to engage in discussions with the Governor's Office. She stated that the LC maintained its Support position.

The LC did not take any action on this item.

- g. Assembly Bill 63 – State Government.
- h. Assembly Bill 193 – Professions and Vocations.
- i. Assembly Bill 312 – State Government: Administrative Regulations: Review.
- j. Assembly Bill 535 – Personal Income Taxes: Credit: Professional License Fees.
- k. Assembly Bill 544 – Professions and Vocations: Inactive License Fees and Accrued and Unpaid Renewal Fees.
- l. Assembly Bill 613 – Professions and Vocations: Regulatory Fees.
- m. Assembly Bill 802 – Reports to the Legislature: Statewide Open Data Portal.
- n. Assembly Bill 1140 – Tax Preparers: Disclosures.
- o. Assembly Bill 1271 – Licensing Examinations: Report.

- p. Assembly Bill 1343 – Private Postsecondary Education: California Private Postsecondary Education Act of 2009.
- q. Assembly Bill 1545 – Civil Penalty Reduction Policy.
- r. Senate Bill 53 – Open Meetings.
- s. Senate Bill 601 – State agencies: Licenses: Fee Waiver.

Ms. Molina Lopez reported that items g through s had not been amended since that last CBA meeting.

The LC did not take any action on items g through s.

4. Review and Consideration of Possible Positions on Legislation.

- a. Assembly Bill 5 – Worker Status: Employees and Independent Contractors.

Ms. Molina Lopez reported that AB 5 would codify the California Supreme Court's 2018 Dynamex decision that established revised criteria to determine whether a worker is an independent contractor or employee.

Ms. Molina Lopez stated that AB 5 includes an exemption for accountants and is not expected to impact the CBA's ability to contract with outside CPAs to consult on enforcement matters. She stated that since that since the mail out of the meeting materials, AB 5 was approved by the Legislature and signed into law by the Governor.

The LC did not take any action on this item.

- b. Senate Bill 551 – Oil and Gas: Wells and Facilities: Abandonment and Decommissioning: Reporting and Inspections.

Ms. Molina Lopez reported that SB 551 would require operators of certain oil and gas production equipment and facilities to submit a report to the Department of Conservation regarding their total liability to plug and abandon all wells, decommission related production facilities, and provide site remediation. She stated that when creating this report, operators would be required to estimate their costs in accordance with GAAP. She stated that SB 551 was approved by the Legislature and is awaiting action by the Governor.

Mr. Campos inquired why the CBA would take a watch position on SB 551 and that it did not seem to affect the CBA.

Mr. Bone stated that the LC took a watch position on SB 551 because of the language included in SB 551 regarding the references to GAAP.

The LC recommended the CBA take a Watch position on SB 551.

Yes: Ms. Corrigan, Mr. Famalett, Ms. Geong, Mr. Jacobson, Ms. Molina Lopez, Ms. Salazar, and Mr. Savoy.

No: Mr. Campos.

Abstain: Mr. Silverman.

Absent: Ms. Berhow, Ms. Hinds, Ms. León, Ms. Nicholson, and Ms. Robinson.

5. Review and Possible Consideration of Positions on Legislation the California Board of Accountancy is Monitoring.
 - a. Assembly Bill 37 – Personal Income Taxes: Deductions: Business Expenses: Commercial Cannabis Activity.
 - b. Assembly Bill 286 – Taxation: Cannabis.
 - c. Assembly Bill 289 – California Public Records Act Ombudsperson.
 - d. Assembly Bill 496 – Business and Professions.
 - e. Assembly Bill 545 – Cannabis: Bureau of Cannabis Control: Cannabis Control Appeals Panel.
 - f. Assembly Bill 768 – Professions and Vocations.
 - g. Assembly Bill 1184 – Public Records: Writing Transmitted by Electronic Mail: Retention.
 - h. Assembly Bill 1417 – Cannabis Advertisement and Marketing.
 - i. Assembly Bill 1678 – Indoor-Grown Cannabis Commission.
 - j. Senate Bill 522 – Taxation.
 - k. Senate Bill 598 – Open Financial Statements Act.
 - l. Senate Bill 700 – Business and Professions: Noncompliance with Support Orders and Tax Delinquencies.
 - m. Senate Bill 749 – California Public Records Act: Trade Secrets.

Ms. Molina Lopez stated that items a through m were bills being monitored by staff, and include spot bills and legislation related to the cannabis industry.

The LC did not take any action on the above items.

6. Legislative Items for Future Meeting. The California Board of Accountancy may discuss other items of legislation in sufficient detail to determine whether such items should be on a future Legislative Committee meeting agenda and/or whether to hold a special meeting of the Legislative Committee to discuss such items pursuant to Government Code section 11125.4.

XI. Regulations.

- A. Regulation Hearing Regarding Title 16, California Code of Regulations Section 45 – Reporting to the Board.

Ms. Butu read the following statement regarding the regulation hearing into the record.

“Good afternoon. This is a public hearing on proposed regulations of the California Board of Accountancy, Department of Consumer Affairs, to consider amending CBA Regulations Section 45 regarding peer review reporting.

On behalf of the CBA and its staff, I’d like to welcome you. My name is Ileana Butu and I serve as and I serve as Department of Consumer Affairs Legal Counsel to the California Board of Accountancy. I will preside over this hearing on behalf of the CBA and the Department.

The California Board of Accountancy is contemplating this action pursuant to the authority vested by Sections 5010, and 5076 of the Business and Professions Code, authorizing the CBA to amend, adopt, or repeal regulations for the administration and enforcement of Title 16, Division 1, of the Business and Professions code. For the record, the date today is September 26, 2019 and the time is approximately 2:00 p.m. Our hearing is being held at the California State Polytechnic University, Pomona Kellogg West Conference Center and Hotel, 3801 W Temple Avenue, Pomona, CA 91768.

The notice for the hearing on these proposed regulations was published by the Office of Administrative Law on July 12, 2019. Interested parties on our mailing list have been notified of today’s hearing. The language of the proposed regulations has been mailed to those who requested it and has been available on the CBA’s website and upon request by other members of

the public since July 11, 2019. Copies of the proposed regulations are available here today.

If the CBA has received written comments on the proposal, those comments will be entered into the official record of the proceedings. The CBA shall be provided and shall consider all written comments received through August 26, 2019.

Those persons interested in testifying today should identify themselves and the section or subsection of the proposed regulations that they wish to address. Individuals will be called to testify in the order determined by recognition from the hearing officer.

If you have a comment about the proposed regulation or any part or specific subsection of the proposal, please step up to the microphone and give your name, spelling your last name and tell us what organization you represent, if any. Speak loudly enough for your comments to be heard and recorded.

Remember, it's not necessary to repeat the testimony of previous commentators. It is sufficient if you simply say that you agree with what a previous speaker has stated. Written testimony can be summarized but should not be read. When you are testifying, please identify the particular regulation proposal you are addressing. Please comment only on provisions of the article under discussion.

If you have a question about a proposed regulation, please re-phrase your question as a comment. For example, instead of asking what a particular subdivision means, you should state that the language is unclear and why. This will give the CBA an opportunity to address your comments directly when the CBA makes its final determination of its response to your comments.

Please keep in mind that this is a public forum to receive comments on the proposed regulations from interested parties. It is not intended to be a forum for debate or defense of the regulations. After all witnesses have testified, the testimony phase of the hearing will be closed."

No public comments were received.

Ms. Butu closed the regulation hearing at 2:10 p.m.

- B. Discussion and Possible Action to Amend Title 16, California Code of Regulations Section 45 – Reporting to the Board.
Mr. Franzella noted additional staff-recommended changes to the originally proposed text. He noted the changes were to improve clarity.

It was moved by Mr. Campos and seconded by Mr. Jacobson to:

- **Approve the modified regulatory text to Title 16, California Code of Regulations section 45, including sending out the modified text for an additional 15-day comment period,**
- **If after the 15-day public comment period, no adverse comments are received, authorize the Executive Officer to make any non-substantive changes to the proposed regulations and adopt the proposed regulations as described in the modified notice; and**
- **Direct staff to take all steps necessary to complete the rulemaking file, including submitting to the Director of the Department of Consumer Affairs; the Business, Consumer Services, and Housing Agency; and Office of Administrative Law.**

Yes: Mr. Campos, Ms. Corrigan, Mr. Famalett, Mr. Jacobson, Ms. Molina Lopez, Ms. Salazar, Mr. Savoy, and Mr. Silverman.

No: None.

Abstain: None.

Absent: Ms. Berhow, Ms. Hinds, Ms. León, Ms. Nicholson, and Ms. Robinson.

XII. Closing Business.

A. Public Comments.

There were no public comments.

B. Agenda Items for Future California Board of Accountancy Meetings.

There were no items for future California Board of Accountancy meetings.

XIII. Closed Session: Pursuant to Government Code Section 11126(c) (3), the California Board of Accountancy Will Convene Into Closed Session to Deliberate on Enforcement Matters.

XIV. Closed Session: Pursuant to Government Code Section 11126(e), the California Board of Accountancy Will Convene Into Closed Session to Receive Advice From Legal Counsel on Litigation.

A. *Sam Walker and Sam Walker CPA, Inc. v. Department of Consumer Affairs, California Board of Accountancy, and the Office of Administrative Hearings, Los Angeles County Superior Court, Case No. BS171533.*

B. *Lanfeng Zhao and ELZ Accountancy Corporation v. California Board of Accountancy, Los Angeles Superior Court, Case No. 18STCP02951.*

- C. *Lowell A. Baisden v. Patti Bowers Executive Officer, Board of Accountancy, Department of Consumer Affairs, State of California, Evan J. Geilenkirchen, and Jane M. Geilenkirchen*, Fifth Appellate District Court of Appeal, Case No. F076662.
- D. *Subramaniam Easwara Ramanan and Neeka Accountancy Corporation v. California Board of Accountancy, Department of Consumer Affairs, State of California*, Sixth District Court of Appeal, Case No. H041566.
- E. *Michael D. Robinson v. California Board of Accountancy*, San Francisco County Superior Court, Case No. CPF-19-516602.

XV. Petition Hearings.

- A. Masood A. Chotani, CPA License Number 65903 – Petition for Termination of Probation.

The CBA heard Mr. Chotani's petition for termination of probation.

- B. Raymond Young, CPA License Number 65676 – Petition for Termination of Probation and Petition for Reinstatement of CPA License Number 65676.

The CBA heard Mr. Young's petition for termination of probation and reinstatement of CPA license number 65676.

- C. Jacob Benadon, CPA License Number 24099 – Petition for Termination of Probation.

Mr. Benadon or counsel was not present for the petition for termination of probation. The CBA reviewed Mr. Jacobson's petition for termination of probation.

XVI. Closed Session: Pursuant to Government Code Section 11126(c)(3), the California Board of Accountancy will Convene into Closed Session to Deliberate on the Above Petitions.

Adjournment.

President Famalett adjourned the meeting at 11:11 a.m. on Friday,
September 27, 2019.

_____ George Famalett, CPA, President

_____ Nancy J. Corrigan, CPA, Secretary/Treasurer

Rebecca Reed, Board Relations Analyst, and Patti Bowers, Executive Officer, CBA,
prepared the CBA meeting minutes. If you have any questions, please call
(916) 561-1718.